

August 11, 2009

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION (CORRECTION OF APPEAL DATES)

SUBJECT: Department of Development and Environmental Services File No. **L04P0017**
Proposed Ordinance No. **2006-0127**

VILLAGE AT SHADY LAKE

Preliminary Plat Application
Transfer of Development Rights
Shoreline Management Substantial Development Permit
Appeal of Mitigated Determination of Environmental Non-Significance (MDNS)

Location: Northern side of SE 192nd Drive, approximately one-third mile east of
SE Petrovitsky Road

Appellant: Shady Lake Community Council
represented by **Joe Giberson**, President
17834 Southeast 196th Drive
Renton, Washington 98055
Telephone (Home): (425) 271-6478
Telephone (Office): (253) 815-2642

Applicant: Cambridge Land Holdings, LLC
represented by **Duana Koloušková**
Johns Monroe Mitsunaga
1601 114th Avenue Southeast, Suite 110
Bellevue, Washington 98004
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Facsimile: (425) 451-2818
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King County: Department of Development and Environmental Services (DDES)
represented by **Kimberly Claussen**
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Renton, Washington 98055
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SUMMARY OF RECOMMENDATIONS/DECISION:Preliminary Plat Application

Department's Preliminary Recommendation:

approve, subject to conditions

Department's Final Recommendation:

approve, subject to conditions

Examiner's Decision:

approve, subject to conditions (modified)

Transfer of Development Rights

Department's Preliminary Recommendation:

approve, subject to conditions

Department's Final Recommendation:

approve, subject to conditions

Examiner's Decision:

approve, subject to conditions

Shoreline Substantial Development Permit

Department's Preliminary Recommendation:

approve, subject to conditions

Department's Final Recommendation:

approve, subject to conditions

Examiner's Decision:

approve, subject to conditions

Appeal of Environmental Threshold Determination (MDNS)

Department's Preliminary Recommendation:

deny the appeal

Department's Final Recommendation:

deny the appeal

Examiner's Decision:

grant the appeal, in part, and deny, in part

EXAMINER PROCEEDINGS:

Hearing opened:

July 28, 2009

Hearing administratively continued:

July 28, 2009

Hearing closed:

July 31, 2009

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.

A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES AND TOPICS ADDRESSED:

Single course of action with other development proposals; surface water drainage and impact on downstream flooding; traffic impacts; pedestrian safety; wildlife impacts; eligibility for transfer of development rights; road improvements; construction impacts.

SUMMARY:

A subdivision of 36 lots in the urban area, including the transfer of 12 development credits, and a shoreline substantial development permit, are approved subject to additional mitigation.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:**1. General Information:**

Developer:

Renton Property Holdings

Attn: DJ Rae

1064 NE Ingram Street

Issaquah, Washington 98029

Engineer: Offe Engineers
 Attn: Darrell Offe
 13932 159th Place
 Renton, Washington 98059
 425-260-3412

Location: The proposed plat is located on the north side of SE 192nd Drive, approximately one-third mile east of the intersection of SE Petrovitsky Road and SE 192nd Drive. The shoreline permit is located on the south side of SE 192nd Drive, southeast of the proposed subdivision.

STR: 36-23-05
 Zoning: R-4
 Acreage: 5.97 acres
 Number of Lots: 36
 Density: Approximately six units per acre
 Lot Size: Ranges from approximately 3,393-5,456 square feet in size
 Proposed Use: Single-Family Detached Dwellings
 Sewage Disposal: Cedar River Water & Sewer District
 Water Supply: Cedar River Water & Sewer District
 Fire District: King County Fire District No. 40
 School District: Kent School District
 Shoreline Proposal: Within Shoreline Management Jurisdiction, construction of a rock lined open ditch segment to outfall into Shady Lake to be built in conjunction with the proposed plat of The Village at Shady Lake (L04P0017).

Water body: Shady Lake
 Shoreline of State Wide Significance: No
 Shoreline Designation: Urban

Complete Application Date: December 3, 2004 (Plat)
 December 8, 2006 (Shoreline)

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the July 28, 2009, public hearing are found to be correct and are incorporated herein by this reference. The LUSD staff recommends approval of the application, subject to conditions.
3. This proposed subdivision may or may not be approved and developed contemporaneously with other subdivisions currently proposed within the same area. These other subdivisions will, more likely than not, have similar impacts on area roads, particularly SE 192nd Drive and SE 196th Drive ("Shady Lake loop road"), and upon drainage to and from Shady Lake. However, this development and other proposed subdivisions in the vicinity are not proposals by the same property owner, and do not depend upon one another being implemented simultaneously in order to proceed. Any one or more of the currently proposed subdivisions, including the Village at Shady Lake, can proceed independently of the approval and development of each of the other proposed subdivisions.
4. This proposed application for preliminary plat approval is vested to King County ordinances and regulations in effect on December 3, 2004. The King County Surface Water Design Manual (KCSWDM) then in effect was the 1998 KCSWDM.

The Mitigated Determination of Environmental Non-Significance (MDNS) for this proposed development was issued on March 10, 2006. The KCSWDM then in effect was the 2005 manual.

5. The drainage analysis prepared for this proposal was a Level I Drainage Analysis dated June 5, 2005 (dated June 10, 2005 on the inside cover page). This analysis states, “The proposed project is located in a level 2 flow control area according to the King County detention map. The level 2 flow control requires the developed flow rates discharge to the pre-developed flow rates ranging from 50 percent of the two-year peak flow up to the full 50-year peak flow.” Exhibit 22, page 5.

Shady Lake has had periodically elevated water levels that resulted in nuisance flooding on surrounding residential properties for several years. Studies done by King County concluded that these problems were due to above average precipitation in recent years, recent development in the lake’s drainage basement, and accumulation of vegetation, silt and debris upstream and downstream of the prior 36-inch diameter outlet culvert for the lake.

The King County Department of Transportation replaced the 36-inch diameter outlet culvert with a 73-inch by 55-inch corrugated metal arch pipe in the summer of 2005. The June, 2005 downstream analysis, done prior to the replacement of the outlet culvert, stated that:

...(W)ith improvements to the conveyance system from the site to the lake, and with the replacement of the existing outlet for the lake by the County, that a level I detention standard is more appropriate than the level II. Upstream developments from the lake currently do not provide detention, and by providing level I detention, the proposed development would neither aggravate nor create additional problems downstream. If improvements cannot be made on the private property to upgrade the conveyance (into Shady Lake), then the level II standard would be more appropriate. With the modifications to the outlet pipe from the lake, no further mitigation will be required. Page 7.

The applicant’s January 10, 2006 Level I Report Addendum (Exhibit 28) anticipated that the county’s replacement of the outlet culvert under SE 196th Drive would decrease flooding problems around Shady Lake during large storm events. However, the actual water levels of Shady Lake have been fluctuating with different patterns and more extremely during the past two years (2007 and 2008). During major storm events since the installation of the new culvert, Shady Lake rises more rapidly and to higher levels.

The preponderance of the evidence establishes that the construction of the enlarged culvert to convey the outflow from Shady Lake did not resolve the problem of constricted drainage from the lake. The sole significant outlet from Shady Lake, known as Honey Creek, flows along a very moderate gradient from Shady Lake, through the new county culvert, then south and east to Peterson Lake. At least one other culvert, approximately 600-800 feet downstream from the new county culvert under SE 196th Drive, is not maintained. This constriction in the downstream flow results in water and debris backing up to the outlet of the new county culvert under SE 196th Drive. This, in turn, results in the SE 196th Drive culvert not functioning as intended during storm events, allowing the level of Shady Lake to increase to nuisance flood levels. Under present conditions, nuisance flooding continues to occur on properties surrounding the lake.¹

¹ The 1998 KCSWDM defines “conveyance system nuisance problems” as “...any nuisance flooding or erosion that results from the overflow of a constructed conveyance system for runoff events less than or equal to a 10-year event. Examples include inundation of a shoulder or lane of a roadway, overflows collecting in yards or pastures, shallow flows across driveways, minor flooding of crawl spaces or unheated garages/outbuildings, and minor erosion. Page 1-20. (cont.)

The 1998 KCSWDM requires that, “A proposed project must not significantly aggravate existing downstream problems...(the) manual does not require development proposals to fix or otherwise reduce the severity of existing downstream drainage problems, although doing so may be an acceptable mitigation.” Page 1-22. The downstream constriction that appears to be causing the existing problem is located on private property, where there is no existing right of public or private access to assure that appropriate maintenance occurs.

The 2005 KCSWDM requires that downstream conveyance system nuisance problems receive special attention (Section 1.2.2), “...because of their chronic nature and because they result from the failure of a conveyance system to provide a minimum acceptable level of protection.” Page 1-23.

The 2005 KCSWDM specifically requires, when a conveyance system nuisance problem is identified or predicted downstream, the need for additional mitigation must be evaluated. Both the 1998 and 2005 KCSWDMs recognize that controlling the peaks and durations of flow from a new development, using increased onsite detention and more limited controlled release, can prevent aggravation of downstream problems.

Although this proposed plat is only three percent of the area of the basin that flows into Shady Lake, the by-pass channel being constructed as part of this proposal is being sized to convey undetained flow from the fully developed basin directly into Shady Lake during a 100-year storm event. Unusual circumstances exist with this proposed development where a specific, probable and significant adverse environmental impact has not been addressed by the MDNS, and might not be adequately addressed in the normal drainage engineering review process.

KCC 20.24.080B.7 adopts the provisions of KCC Chapter 9.04, King County Surface Water Runoff Policy, as one of the potential bases for the exercise of King County’s substantive authority under the State Environmental Policy Act (SEPA).

6. The evidence presented at the hearing supports the reasonableness of the conditions recommended by DDES to mitigate impacts of the proposed development on SE 192nd Drive. Improvements to the frontage of the property being developed will include curb, gutter and sidewalk, consistent with the requirements of the King County Road Standards, and widening to 28 inches the pavement for vehicle travel. From the subject property to the intersection of SE 192nd Drive and SE Petrovitsky Road the pavement for vehicle travel will be widened to 24 inches with five-foot wide paved shoulder, demarcated by a fog line, providing an area for pedestrians and bicyclists.

At the SE 192nd Drive/Petrovitsky Road intersection, a left turn lane for southbound traffic on Petrovitsky Road will be constructed to provide additional safety for traffic waiting to turn onto SE 192nd Drive. This improvement will enable southbound through traffic to pass through the intersection without being obstructed by traffic waiting to make a left turn. All levels of service (LOS) at this intersection will remain at LOS “C”, which is adequate under the adopted King County standards.

The preponderance of the evidence is that only insignificant traffic will be added to SE 196th Drive. No improvements to SE 196th Drive are required to mitigate impacts of this development.

The 2005 KCSWDM defines the same terms as, “...minor but chronic flooding or erosion problems that result from the overflow of a constructed conveyance system that is substandard or has become too small as a result of upstream development.” Page 1-23.

7. The maximum density permitted in the R-4 zone classification is six dwelling units per acre. This density depends upon the use of density incentives or acquisition of transferable density credits, which the applicant has acquired. Proof of the acquisition of sufficient density credits to develop the subject property at the proposed density is a standard condition of final plat approval. All sites located in the urban area of unincorporated King County that are zoned R-4 through R-48 are eligible receiving sites for transferable density credits. The adequacy of facilities and services to support the maximum density was determined by the King County Council during the process of applying the R-4 zone classification to the property.
8. The area surrounding Shady Lake is frequented by wildlife, including bald eagles, deer, river otters, raccoons and other small birds and mammals. None of these species are protected by law or regulation as endangered or threatened, although eagle nests are protected from development activities within an 800-foot radius. There is no evidence of an eagle nest within 800 feet of this development site.
9. Construction of improvements to SE 192nd Drive could result in temporary obstructions and closures of that road, and work at its intersection with SE Petrovitsky Road could temporarily divert substantial traffic to SE 196th Street. The intersection of SE 196th Street and SE Petrovitsky Road has limited site distance, and the roadway of SE 196th Street, east from SE Petrovitsky Road to SE 192nd Drive (the remaining section of the Shady Lake loop road), is narrow. A traffic management plan can be developed in conjunction with the construction plans, to be reviewed and approved by King County, to assure that there is safe ingress and egress to all properties accessed by the Shady Lake loop road during all phases of construction.

This may require, among other things, employment of personnel as well as devices and signs to appropriately control traffic on the affected roadways.

CONCLUSIONS:

1. In the absence of additional mitigation, the proposed development of the Village at Shady Lake and the accompanying Shoreline Substantial Development, will have a probable significant adverse impact upon the environment by increasing the likelihood and the extent of flooding affecting residential lots, buildings and other improvements surrounding Shady Lake. This impact can be mitigated by reasonable conditions based upon the policies and requirements of the 1998 and 2005 KCSWDMs, which have been adopted by King County as basis for imposing conditions on development proposals pursuant to the State Environmental Policy Act (SEPA).

The responsible official, when making the March 10, 2006 environmental threshold determination, had inadequate and incorrect information concerning the sufficiency of the downstream conveyance system from Shady Lake to carry flows from Shady Lake during major storm events. The appeal by Shady Lake Community Council of the March 10, 2006 MDNS should be granted, in part, and a condition should be added to the MDNS that assures adequate analysis of the impacts of this development on Shady Lake, including discussion of methods to avoid increased flooding of residential properties surrounding Shady Lake during and following 100 year storm events, and specific facilities and controls that will be adequate to prevent aggravation of flooding as a result of this development.

2. If approved subject to the conditions recommended below, the proposed subdivision of the Village at Shady Lake, and the transfer of up to 12 density credits, will comply with the goals and objectives of the King County Comprehensive Plan, subdivision and zoning codes, and other official land use controls and policies of King County.

3. If approved subject to the conditions recommended below, the proposed Shoreline Substantial Development Permit will be consistent with the policies and requirements of the Shoreline Management Plan and the criteria for approval of a Shoreline Substantial Development permit.
4. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare, and for open spaces, drainage ways, streets, other public ways, transit stops, potable water supply, sanitary waste, parks and recreation, playgrounds, schools and school grounds and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
5. The conditions for final plat and Shoreline Substantial Development Permit approval recommended below are in the public interest and are reasonable and proportionate requirements necessary to mitigate the impacts of the development upon the environment.
6. The dedications of land or easements within and adjacent to the proposed plat and Shoreline Substantial Development Permit, as required for final plat or Shoreline Substantial Development Permit approval, or as shown on the proposed preliminary plat submitted by the Applicant on May 1, 2008, are reasonable and necessary as a direct result of this development, and are proportionate to the impacts of the development.

DECISION:

The appeal by Shady Lake Community Council of the March 10, 2006 MDNS for this proposed action is granted, in part, as follows:

The proposal, with the present mitigating conditions, will have a probable significant adverse impact upon the environment unless an additional mitigation is required pursuant to the exercise of King County's authority under SEPA. The March 10, 2006 MDNS is hereby revised, under the authority of KCC Chapter 9.04 and the KCSWDM (1998 and 2005) to add the following condition:

Prior to engineering plan review and approval for construction of plat improvements and the shoreline substantial development, the applicant shall provide additional surface water drainage analysis satisfactory to the DDES review engineer that incorporates drainage conveyance improvements and maintenance plans downstream of Shady Lake, that are capable of accomplishment at the time of development and thereafter, to assure the unimpeded conveyance of stormwater from Shady Lake sufficient to avoid any aggravation of existing flooding conditions, or, in the alternative, that incorporates stormwater detention and release facilities and controls that accomplish the same objective of not aggravating existing flooding conditions.

If the applicant elects to not incorporate the foregoing condition into the proposal, King County shall prepare an environmental impact statement (EIS) with a scope that addresses, at minimum, impacts of this proposed development on water level fluctuations of Shady Lake, flooding of properties surrounding Shady Lake, and downstream conveyance of surface water.

The remaining portions of the appeal of the March 10, 2006 MDNS are denied.

The proposed preliminary plat of Village at Shady Lake, as revised and received on May 1, 2008, is approved, subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.

3. a. The plat shall comply with the base density and minimum density requirements of the R-4 zone classification. All lots shall meet the minimum dimensional requirements of the R-4 zone classification or shall be shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environment Services.

Any/all plat boundary discrepancy shall be resolved to the satisfaction of DDES prior to the submittal of the final plat documents. As used in this condition, "discrepancy" is a boundary hiatus, an overlapping boundary or a physical appurtenance which indicates an encroachment, lines of possession or a conflict of title.

- b. The applicant shall provide the TDR certificate with the submittal of the engineering plans and the final plat. If the TDR certificate cannot be obtained, the applicant shall redesign the number of lots based upon the allowable density. This will result in the reconfiguration and loss of lots.
4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
 5. The applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
 6. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in K.C.C. 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
 - a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual and applicable updates adopted by King County, except to the extent that the MDNS is revised by this decision to include consideration of the 2005 KCSWDM. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
 7. The drainage detention facility shall be designed to meet at a minimum the Level 1 Flow Control and Basic Water Quality menu in the 1998 King County Surface Water Design Manual

(KCSWDM), unless additional detention and more stringent flow control is determined necessary to avoid aggravation of downstream problems. (See additional MDNS condition.)

8. A new offsite drainage outfall pipe to Shady Lake is required in conjunction with Shoreline Substantial Development Permit L06SH012; to be designed according to the 1998 KCSWDM. The new pipe is proposed across the westerly portion of Lot 28, Block 2, of Shady lake Addition. This offsite drainage improvement shall be designed in general conformance with the Conceptual Drainage Plan received March 20, 2008; unless otherwise approved by DDES. Plans for the improvement shall be included with the engineering plan submittal. Note that a drainage easement has been acquired by the applicant for this improvement.
9. This site is subject to the Wet Season Erosion Control Requirements in Appendix D of the 1998 King County Surface Water Design Manual (KCSWDM). If construction is occurring in the wet season, an erosion control supervisor shall be designated per Section D.5.4. Weekly reviews and documentation shall be provided per Section D.5.4 Maintenance Requirements. Notes for these requirements shall be placed on the engineering plans. Because the site is in close proximity to Shady Lake, DDES encourages that no site construction take place during the seasonal limitation period(October1 to April 30).
10. A drainage adjustment(L05V0078) is approved to combine the onsite subbasins into one post-developed detention facility. All conditions of approval for this adjustment shall be incorporated into the engineering plans.
11. The 100-year floodplain for any onsite streams or wetlands shall be shown on the engineering plans and the final plat per Special Requirement 2 of the KCSWDM.
12. The following road improvements are required to be constructed according to the 1993 King County Road Standards (KCRS):
 - a. The internal access road 176th Avenue SE shall be improved at a minimum to the urban subaccess standard. SE 188th Place from 176th Avenue SE to the east plat boundary shall also be improved to the urban subaccess standard.
 - b. SE 188th Place from 176th Avenue SE west to the cul-de-sac shall be improved at a minimum to the urban minor access street standard.

Note: Compliance with the requirements of approval from the King County Fire Marshal may require wider roadway sections than are called for in the 1993 King County Road Standards. A 36-foot wide (curb-to-curb) roadway is required to allow for parking without any restrictions.

- c. Permitted alternatives to roadways wider than required under the KCRS would include either
 - (a) the conveyance of a minimum 3-foot wide private easement abutting the public right-of-way for the private installation and HOA maintenance and enforcement of “No Parking Fire Lane” signs, and the installation of these signs, or,
 - (b) installation of a fire suppression system meeting the requirements of the Fire Marshal in each unit/structure.

A note referencing the selected alternative, as appropriate, shall be placed upon the final plat map – and the easement shown if alternative (a) is selected

- d. **FRONTAGE:** SE 192nd Street shall be improved along the property frontage in accordance with urban neighborhood collector standards, with a minimum of 12 feet of pavement on the south side of the roadway crown, and no less than 16 feet of pavement (meeting the urban neighborhood collector half-street cross-section) on the north side (plat frontage) of the roadway crown. Urban shoulder improvements: concrete curb/gutter and sidewalk, are required along the entire frontage of the subdivision, with appropriate transitions to the off-frontage improvements to the west, and the existing improvements to the east.

The final designs should be coordinated with the future necessary road improvements for The Parks III plat (DDES File #L06P0002) to assure a consistent roadway alignment across both subdivisions' frontages. During the engineering review phase, the precise alignment may be adjusted to allow an offset between the right-of-way centerline and the interim construction centerline (16-feet south of the new curb line) to minimize/eliminate the need for relocation of utilities for these interim improvements. However, a roadway crown shall be set no less than 12 feet from the south edge of pavement.

- e. **OFFSITE:** Offsite road improvements are also required along SE 192nd Street, extending westerly from the subject property to Petrovitsky Road SE. The design requirements for the offsite improvements shall be generally the same as those shown in the conceptual road improvement plans submitted to DDES, with a minimum of 24-feet of pavement (2-12 foot wide travel lanes: one lane on each side of a new roadway crown) and a five-foot wide paved shoulder for pedestrians along the north side of the roadway.
- f. Channelization and illumination plans for all off-site roadway improvements shall be submitted for DOT review and approval. Channelization and illumination shall conform at minimum to the requirements of the 1993 KCRS.
- g. Modifications to the above road conditions may be considered by King County pursuant to the variance procedures in KCRS 1.08.
- h. To mitigate the significant adverse impact (KCC 14.80.030B) the plat of Village at Shady Lake Plat (DDES File #L04P0017) will have on the intersection of Southeast 192nd Drive/Petrovitsky Road, the Applicant shall install, either individually or in conjunction with other development projects in the area, a southbound left turn lane from Petrovitsky Road onto eastbound Southeast 192nd Drive. This turn lane shall comply with requirements in the King County Road Standards, including a 12-foot wide turn lane with no less than 100 feet of storage, one travel lane in each direction on Petrovitsky Road, eight (8) foot wide paved shoulders on each side of Petrovitsky Road and an illumination system meeting applicable County requirements. This may include relocation of any utilities conflicting with these requirements. Minor modifications to this may be proposed through the Variance process.

The design for the Southeast 192nd Drive/Petrovitsky Road intersection improvements, including channelization and illumination, shall be approved by the King County Department of Transportation.

- i. Construction impacts on area travel, pedestrian safety and ingress/egress to residences on the Shady Lake loop road (S 192nd Drive/S 196th Drive) shall be addressed by a construction traffic and management plan. The plan shall be prepared and submitted with the engineering plans for the plat and shoreline substantial development, for review and approval by DDES prior to the start of construction.

14. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at the final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
15. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, 50 percent of the impact fees due for the plat shall be assessed and collected immediately prior to the recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
16. The planter islands (if any) within the cul-de-sacs shall be maintained by the abutting lot owners or homeowners association. This shall be stated on the final plat.
17. The proposed subdivision shall comply with the Sensitive Areas Code as outlined in K.C.C. 21A.24. Permanent survey marking, and signs as specified in K.C.C. 21A.24.160 shall also be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.
18. Preliminary plat review has identified the following specific requirements which apply to this project. All other applicable requirements from K.C.C. 21A.24 shall also be addressed by the applicant.

Wetlands/Streams

- a. The three on-site Class 3 wetlands shall have a minimum, undisturbed 25-foot buffer as measured from the wetland edge.
- b. The stream located on and near the site was considered to be both a Class 3 and Class 2/s (fish bearing) water. Fish were observed in the lower portion of the stream located within the road side ditch along SE 192nd Drive. This is the Class 2/s portion. No fish were observed in the upper portion from SE 192nd Drive to wetland C (Tract A). This is the Class 3 portion. The Class 3 portion shall maintain a 25-foot buffer from the ordinary high water mark (OHWM). The Class 2/s portion shall maintain a 100-foot buffer from the OHWM.
- c. The Sensitive Areas (wetlands, stream, and buffers) shall be placed in a Sensitive Areas Tracts (SAT's) for long term protection.
- d. A 15 foot building setback line (BSBL) is required from the edge of all SAT's and shall be shown on all affected lots.
- e. Road access construction for proposed 176th Ave SE is allowable with mitigation and shall utilize construction techniques such as retaining walls, bridges, or larger "fish friendly" culverts to avoid impacts to sensitive areas.

- f. Improvements along SE 192nd Drive are required. The road side ditch (Class 2/s stream) cannot be piped. This lower portion of stream channel maybe re-routed within the project area as proposed “Stream Channel Relocation/Fish Habitat Improvement Concept Plan” for the Village at Shady Lake, dated March 18, 2008. Final plans shall be routed to the KC Critical Area staff for review.
- g. As part of the frontage improvements a new cross culvert under SE 192nd Drive for the Class 2/s stream was proposed “Stream Channel Relocation/Fish Habitat Improvement Concept Plan”. This existing cross culvert **shall not** be replaced unless specifically reviewed and approved by DDES critical areas staff.
- h. Trails maybe permitted within the SAT as proposed. Mitigation such as additional buffer areas and/or buffer plantings shall need to be included with the overall mitigation plan. The plans shall be routed to Critical Area staff for review and approval.
- i. Construction and sedimentation fencing shall be used at the edge of the SAT boundaries to ensure protection of the sensitive areas during the construction phase of the project. The fencing shall remain in place until after construction is completed.
- j. To ensure long-term protection of the sensitive areas a permanent split-railed or similar type of fence and sensitive area signage shall be required after the construction phase and prior to home building along the SAT boundaries.
- k. Impacts to sensitive areas and buffers, this includes the re-routing of the stream from the roadside drainage system and other on-site improvements, shall require a mitigation plan. A mitigation plan shall be required during the engineering review phase of the project.
- l. The storm outfall pipe may be routed within a Class 2/s buffer. The buffer currently consists of lawn, landscaping and driveway. This was reviewed and approved under L07AE003. The buffer area may be restored to its original condition.
- m. A high by-pass flow splitter, or similar, as proposed in “Stream Channel Relocation/Fish Habitat Improvement Concept Plan” shall be utilized to avoid impacts to salmonids.
- n. The storm detention outfall is to be located near the shore line of Shady Lake. Several outfall designs have been presented for review. The outfall shall be designed, to the best of the applicant’s ability, as a non-fish attractor. Final designs shall be routed to KC Critical Area staff for review.
- o. During engineering and/or early start plat review the applicant shall provide a wetland hydrology analysis to demonstrate how the wetland hydrology will be maintained post-construction.
- p. Engineering plans shall be routed to KC Critical Area staff for review.
- q. The following note shall be shown on the final engineering plan and recorded Plat:

**RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE
AREAS AND BUFFERS**

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public

health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/critical area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

19. Suitable recreation space shall be provided consistent with the requirements of K.C.C. 21A.14.180 and K.C.C. 21A. 14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
 - a. A detailed recreation space plan (i.e., location, area calculations, dimensions, landscape specs, equipment specs, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of engineering plans.
 - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
20. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation, open space and/or sensitive area tract(s).
21. Street trees shall be provided as follows (per KCRS 5.03 and K.C.C. 21A.16.050):
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the county has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.

- e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 - g. The applicant shall contact Metro Service Planning at (206) 684-1622 to determine if SE 192nd Drive is on a bus route. The street tree plan shall also be reviewed by Metro, if on a bus route.
 - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
22. The following have been established by SEPA as necessary requirements to mitigate the adverse environmental impacts of this development. The applicants shall demonstrate compliance with these items, as well as the additional mitigating condition (or preparation of a limited scope EIS) required by the decision on the appeal of the MDNS, prior to engineering plan approval, Substantial Shoreline Development Permit approval, or final plat approval, as applicable.
- a. To mitigate the significant adverse impact (KCC 14.80.030B) the plat of The Village at Shady Lake will have on the intersection of Southeast 192nd Street/Petrovitsky Road, the Applicant shall install, either individually or in conjunction with other development projects in the area, a southbound left turn lane from Petrovitsky Road onto eastbound Southeast 192nd Street. This turn lane shall comply with requirements in the King County Road Standards, including a 12-foot wide turn lane with no less than 100 feet of storage, one travel lane in each direction on Petrovitsky Road, eight (8) foot wide paved shoulders on each side of Petrovitsky Road and an illumination system meeting applicable County Requirements. This may include relocation of any utilities conflicting with these requirements. Minor modifications to this may be proposed through the variance process.
- The design for the Southeast 192nd Street/Petrovitsky Road intersection improvements shall be approved by the King County Department of Transportation.
- In lieu of the installation of the above-noted intersection improvements prior to final plat approval, the Applicant (or successors or assigns) – either individually or jointly with other developers – may post a financial guarantee with King County which assures the installation of these improvements within two years of the recording of the plat of the Village at Shady Lake. In this event, the intersection improvement design must be approved by KCDOT prior to approval of the engineering plans for Village at Shady Lake.
- b. If the above-noted intersection improvements have already been made by others prior to the recording of Village at Shady Lake, or a financial guarantee has been posted by others which assures the installation of these improvements, then the Applicant (or successors or assigns) for Village at Shady Lake shall pay a pro-rata share dollar amount

to the developer who has made the improvements or “bonded” for the improvements, in amount proportional to the impacts of Village at Shady Lake. The pro-rata share dollar amount to be paid should be based on the following:

- (a) The final The Village at Shady Lake lot count.
 - (b) The total trips contributed to the intersection of Southeast 192nd Street/Petrovitsky road intersection by the plats of The Village at Shady Lake (L04P0017), The Parks, Division 3 (L06P0002), Paula’s Place (L05P0021), Shady Lake (L05P0002), Mitchell Short Plat (L04S0016), Shady Lake Short Plat (L05S0008) and any future land use applications submitted to King County for which compliance with the King County Intersection Standards (KCC 14.80) is required at the Southeast 192nd Street/Petrovitsky Road intersection.
 - (c) In the event that either King County adopts a formal “latecomer’s” system prior to final plat recording, that system may be followed in lieu of the approach described above, at the discretion of the Applicant (or successors or assigns), as long as at a minimum there is a financial guarantee which assures the above-noted intersection improvements will be installed within two years of the date of recording of the plat of Village at Shady Lake. [Comprehensive Plan Policy T-303 and King County Code 21A.28.060A]
 - d. Prior to final approval of construction activities on the site, the boundary between the Sensitive Area Tract(s) and adjacent land shall be identified using a split-rail fence and permanent signs.
23. To implement K.C.C. 21A.38.230 which applies to the site, a detailed tree retention plan shall be submitted with the engineering plans for the subject plat. The tree retention plan (and engineering plans) shall be consistent with the requirements of K.C.C. 21A.38.230, as well as the conceptual tree retention plan (dated _____). No clearing of the subject property is permitted until the final tree retention plan is approved by LUSD. Flagging and temporary fencing of trees to be retained shall be provided, consistent with K.C.C. 21A.38.230.B.4. The placement of impervious surfaces, fill material, excavation work, or the storage of construction materials is prohibited within the fenced areas around preserved trees, except for grading work permitted pursuant to K.C.C. 21A.38.230.B.4.d.(2).
- A note shall be placed on the final plat indicating that the trees shown to be retained on the tree retention plan shall be maintained by the future owners of the proposed lots, consistent with K.C.C. 21A.38.230.B.6. (Note that the tree retention plan shall be included as part of the final engineering plans for the subject plat.)
24. The proposal shall comply with the conditions of the Shoreline Substantial Development Permit. (DDES file no. L06SH012) and the Critical Areas Alteration Exception (DDES file no. L07AE003).

The Shoreline Management Substantial Development Permit No. L06SH0012 is approved, subject to the following conditions:

- 1. This permit shall be subject to the analysis, review and approval required by the condition established as an additional mitigating condition by the decision on the appeal of the March 10, 2006 MDNS set forth above. To the extent that analysis and approval requires modifications applicable to this Substantial Shoreline Development Permit, those modifications shall be incorporated into the design and construction of the shorelines’ substantial development.

Nothing in this permit shall be construed as excusing the applicant from compliance with any federal, state, or local statutes, ordinances, or regulations applicable to this project other than the permit requirements of the Shoreline Management Act of 1971.

2. This permit may be rescinded pursuant to Section 14(7) of the Shoreline Management Act of 1971 in the event the permittee fails to comply with any conditions thereof.
3. Construction pursuant to this permit may not begin or be authorized until twenty-one (21) days from the date of filing the final order of King County with the Department of Ecology or the Attorney General; or until all review proceedings initiated within twenty-one (21) days from the date of such filing have been terminated.
4. **TIME REQUIREMENTS OF THE PERMIT (WAC 173-27-090).** The following requirements shall apply to all permits.
 - a. Upon a finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the policy and provisions of the master program and the act, local government may adopt appropriate time limits as a part of action on a substantial development permit and local government, with the approval of the department, may adopt appropriate time limits as a part of action on a conditional use or variance permit: “Good cause based on the requirements and circumstances of the project,” shall mean that the time limits established are reasonably related to the time actually necessary to perform the development on the ground and complete the project that is being permitted, and/or are necessary for the protection of shoreline resources.
 - b. Where neither local government nor the department include specific provisions establishing time limits on a permit as a part of action on the permit, the following time limits shall apply:
 - i. Construction shall be commenced or, where no construction is involved, the use or activity shall be commenced within two years of the effective date of a shoreline permit. Provided, that local government may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the department.
 - ii. Authorization to conduct development activities shall terminate five years after the effective date of a shoreline permit. Provided, that local government may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the department.
 - iii. The effective date of a shoreline permit shall be the date of the last action required on the shoreline permit and all other government permits and approvals that authorize the development to proceed, including all administrative and legal actions on any such permit or approval. It is the responsibility of the applicant to inform the local government of the pendency of other permit applications filed with agencies other than the local government and of any related administrative and legal actions on any permit or approval. If no notice of the pendency of other permits or approvals is given to the local government prior to the date established by the shoreline permit or the provisions of this section, the expiration of a permit shall be based on the shoreline permit.

- iv. When permit approval is based on conditions, such conditions shall be satisfied prior to occupancy or use of a structure or prior to commencement of a nonstructural activity: *Provided*, that an alternative compliance limit may be specified in the permit.
 - v. Revisions to permits under WAC 173-27-100 may be authorized after original permit authorization has expired under subsection (2) of this section: *Provided*, that this procedure shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.
 - vi. Local government shall notify the department in writing of any change to the effective date of a permit, as authorized by this section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit other than those authorized by this section shall require a new permit application.
- 5. Construction shall occur in conformance to the revised project plans and information received by King County on May 1, 2008.
 - 6. Any subsequent changes to the approved shoreline plans may require the applicant to obtain a new shoreline permit or a revision to this shoreline permit pursuant to WAC 173-27-100.
 - 7. If required, a Hydraulic Project Approval (HPA) shall be obtained from the Washington State Department of Fish & Wildlife prior to any work. Any conditions of the HPA shall be considered conditions of this shoreline permit.
 - 8. If required, an U.S. Army Corps of Engineers Permit “Corps Permit” shall be obtained from the U.S. Army Corps of Engineers prior to any work. Any conditions of the Corps Permit shall be considered conditions of this shoreline permit. In any event, erosion controls and Best Management Practices (BMP's) shall be implemented and maintained to prevent uncontrolled discharge of water, petroleum products, soil, and other deleterious materials from entering adjacent surface waters.
 - 9. Issuance of this Shoreline Management Substantial Development Permit does not grant the right to trespass upon private property.
 - 10. Prior to work, the applicant shall obtain final approval for the pending plat of The Village at Shady Lake (L04P0017) and abide by any conditions set forth therein. Conditions of said plat approval shall be considered conditions of this Shoreline Permit.
 - 11. The applicant shall control erosion of disturbed areas by implementing Best Management Practices. The applicant’s erosion and sedimentation control plan shall include the following as warranted: installation of silt dams or catchments between work areas and all sensitive areas; the use of mulch and hydroseeding; planting or disturbed areas with native vegetation; and any measures determined to be appropriate. Appropriateness of fencing and location shall be approved and verified by a King County representative prior to commencement of any clearing, grading, or construction activities.
 - 12. Conduct refueling activities within a designated refueling area at a distance of not less than 200 feet away from the lake and any designated wetland areas. Additionally, drip pans shall be fitted with absorbent pads and placed under all equipment being fueled. All equipment, if kept on site overnight, shall be parked at least 200 feet away from the lake and any designated wetland areas.

13. Daily inspection shall be provided by an erosion control specialist to ensure the adequacy and maintenance needs of all erosion and sedimentation control measures. Copies of the reports shall be submitted to the King County DDES. If the erosion control specialist determines there is an erosion or sedimentation problem, King County DDES shall be notified immediately and immediate corrective measures shall be implemented.
14. All manmade debris from the project within the construction zone shall be removed and disposed of at a location licensed for such disposal.
15. A copy of the approved shoreline plans` shall be kept on-site at all times during construction.
16. Within 30 days after completion of the subject R/D drainage system work, at least six photographs of the completed drainage corridor taken from different directions shall be provided to DDES – Shorelines.
17. This SSDP does not authorize the removal or disturbance of aquatic vegetation within or adjacent to the shoreline of Shady Lake.
18. Thru the final plat approval process, and prior to any clearing and grading, within “Tract A”, a retention, restoration, and vegetative enhancement plan shall be provided for said tract to King County for their approval. Said plan shall clearly identify specimen trees that are proposed for retention and those which are to be removed, together with an explanation as to the necessity for such removal. As to be determined, native vegetation in the vicinity of the lake edge shall be retained and enhanced. Aquatic plants within Shady Lake shall not be disturbed. The proposed rock lined ditch segment shall be appropriately enhanced with vegetative plantings.
19. Pursuant to KCC 25. 16.190 (A), a King County Clearing and Grading (C/G) permit shall be obtained prior to work. Said C/G permit shall implement the conditions of this SSDP. Additional conditions of the C/G permit shall be considered conditions of this SSDP.

ORDERED this 10th day of August, 2009.

James N. O'Connor
King County Hearing Examiner *pro tem*

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before August 24, 2009***. If a notice of appeal is filed, the original and six copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before August 31, 2009***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 Third Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within 14 calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the council.

Shoreline Substantial Development Permit

Any person aggrieved by the granting, denying or rescinding of a shoreline permit issued or denied pursuant to RCW Chapter 90.58, may seek review by the Shoreline Hearings Board by filing a petition for review within 21 days of the date of the filing of the decision with the Department of Ecology and the Attorney General.

MINUTES OF THE JULY 28, 2009, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L04P0017, VILLAGE AT SHADY LAKE.

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Kim Claussen, Bruce Whittaker, Kristen Langley, Nick Gillen representing the Department; Steve Foley representing the Department of Natural Resources and Parks; Duana Koloušková and Darrell Offe representing the Applicant; Joe Giberson representing the Appellants; Chris Forster; Ed Sewall; Ray Koneckey; Lyn De La Vergne; Teri Carrigan; Beverly Giberson; Mark Reeves and Tom Bennett.

The following Exhibits were offered and entered into the record:

Exhibit No. 1	Department of Development and Environmental Services (DDES) file nos. L04P0017 and L06SH012, both named Village at Shady Lake
Exhibit No. 2	DDES Preliminary Report, dated July 28, 2009
Exhibit No. 3	Application for Land Use Permits received October 21, 2004
Exhibit No. 4	State Environmental Policy Act (SEPA) checklist received October 21, 2004
Exhibit No. 5	SEPA Determination of Non-Significance issued March 3, 2006
Exhibit No. 6	Affidavit of Posting indicating a posting date of January 20, 2005
Exhibit No. 7	Revised preliminary plat map received May 1, 2008
Exhibit No. 8	Critical Areas Alteration Exception Report and Decision no. L07AE003 issued July 25, 2008
Exhibit No. 9	Assessor maps SE 36-23-05 and NE 1-22-5
Exhibit No. 10	Significant Tree Inventory/Tree Retention Plan, received July 1, 2005
Exhibit No. 11	Density Rights Transfer Agreement, received October 21, 2004
Exhibit No. 12	School Pedestrian Access Plan, received October 21, 2004
Exhibit No. 13	Updated Geotechnical Engineering Report, received October 21, 2004
Exhibit No. 14	Certification and Transfer of Applicant Status
Exhibit No. 15	Revised Wetland Delineation and Analysis Report, received July 1, 2005
Exhibit No. 16	Stream Channel Relocation/Fish Habitat Improvement Concept Plan, received March 20, 2008
Exhibit No. 17	Revised Wetland Delineation and Analysis Report, received July 1, 2005
Exhibit No. 18	<i>duplicate exhibit (see Exhibit No. 16)</i>
Exhibit No. 19	Memorandum of Understanding, received July 8, 2009
Exhibit No. 20	Traffic Impact Analysis, received October 21, 2004
Exhibit No. 21	Traffic Impact Analysis Addendum, received July 7, 2009
Exhibit No. 22	Revised Level One Drainage Analysis, received July 1, 2005
Exhibit No. 23	Drainage Easement and Covenants (unofficial copy), received July 31, 2007
Exhibit No. 24	Watershed Dynamics memorandum regarding: Reconnaissance Level Wetland Review, received September 24, 2007
Exhibit No. 25	Watershed Dynamics memorandum regarding: Recommended Stormwater Overflow Pipeline Location

Exhibit No. 26	Conceptual Road Plan and narrative, received July 7, 2009
Exhibit No. 27	SEPA Appeal, received March 22, 2006
Exhibit No. 28	Level One Drainage Analysis Addendum, Honey Creek Culvert Replacement and Proposed Project Mitigation
Exhibit No. 29	Aerial photograph of Shady Lake area, annotated by applicant
Exhibit No. 30	Diagram of Shady Lake water level measurements from January 2006 through January 2009
Exhibit No. 31	Photographs of two culverts between Shady Lake and Honey Creek taken by Joe Giberson
Exhibit No. 32	Photographs of bald eagles in Shady Lake area
Exhibit No. 33	Photographs of otters and map of possible otter routes in Shady Lake area
Exhibit No. 34	Photographs of deer in Shady Lake area
Exhibit No. 35	Photograph of eagle, aerial photograph showing eagle nest in the Shady Lake area and map depicting locations of rare, threatened, and endangered plant and animal species in King County
Exhibit No. 36	High Landscape Forest Value & Wildlife Habitat Network Areas Inside & Outside Shoreline Jurisdiction map
Exhibit No. 37	Aerial photographs of Shady Lake area, annotated
Exhibit No. 38	Drainage Study of Lower Cedar River Basin
Exhibit No. 39	Honey Creek contour study completed by Joe Giberson
Exhibit No. 40	Drainage Investigation Report for complaint of Mark Reeves on June 20, 1994

The following exhibits were entered into the record administratively on July 30, 2009

Exhibit No. 41	Email chain from Duana Koloušková dated July 30, 2009 at 11:59 a.m., regarding stormwater volumes
Exhibit No. 42	Email response from Joe Giberson dated July 30, 2009, at 10:43 p.m.